



DOMESTIC AND FOREIGN INSURERS BULLETIN NO. 108

TO: INSURERS OFFERING INDIVIDUAL ACCIDENT AND SICKNESS POLICIES, LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS IN DELAWARE

RE: INFORMATION ABOUT CERTAIN PRESCRIPTIONS USED IN UNDERWRITING ANALYSES

DATED: March 28, 2019

The purpose of this Bulletin is to advise insurance companies ("carriers") that underwrite and issue individual accident and sickness policies, life insurance policies or annuity contracts that certain prescriptions, such as naloxone and emtricitabine/tenofovir, are different from other prescriptions and should be treated differently for underwriting purposes.

The Department expects that carriers will not reject or otherwise adversely evaluate any application solely because the applicant may have obtained either:

1. Certain medications that are not relevant to a potential applicant's health, or
2. Other medications prescribed to prevent certain illnesses or diseases.

Prescriptions Not Relevant to the Applicant's Health

As a part of Delaware's commitment to address the opioid epidemic, the Delaware Division of Public Health issued three (3) Community-Based Naloxone Access Program Standing Orders for the broad distribution of naloxone to any Delaware resident (<https://www.dhss.delaware.gov/dhss/dph/files/naloxonestandingorders.pdf>):

- Nasal Naloxone Distribution and Administration, Community Responder Naloxone (Narcan®) Standing Orders;
- Injectable IM (Intramuscular) Naloxone Distribution and Administration, Community Responder Naloxone (Narcan®) Standing Orders (Single-Use Pre-filled Auto-Injector Device Alternative); and
- Naloxone Nasal Spray Distribution and Administration, Community Responder Naloxone Standing Orders (Nasal Spray Alternative).

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.

Additionally, Delaware law allows naloxone to be dispensed to family members, friends, or other persons who complete an approved Community-Based Naloxone Access Program. *See*, 16 *Del.C.* §§ 138 and 3001G(e).

Prescriptions Designed to Prevent Diseases

The Department is aware that there are medications that may be used to both prevent certain illnesses or diseases from impacting an individual and to treat an infected individual.

As an example, a combination of emtricitabine and tenofovir not only treats HIV infection, it is also a pre-exposure prophylactic. Emtricitabine/tenofovir may therefore be prescribed to persons who have not been infected with HIV, in the same manner as a vaccination is administered to prevent other illnesses.

Use of Prescription Information in Underwriting

The Department understands that in the course of reviewing an application for an individual accident or sickness policy, life insurance policy or annuity contract, carriers collect and consider information about the applicant's medical history, including information about the applicant's use of prescription medications.

The Department expects that prior to making an underwriting decision, carriers will obtain information that is sufficient to determine if an applicant has obtained a prescription for a medication that is not relevant to the applicant's health or is designed to prevent disease.

It would defeat the Department's important public health efforts if applications for individual accident and sickness insurance policies, life insurance policies or annuity contracts were unfavorably impacted solely because the applicant had obtained naloxone to address opioid overdoses of other persons or had a prescription written to prevent illness or disease. We expect carriers to carefully consider the reason for and intended user of the prescription prior to making an underwriting decision.

Please direct questions to consumer@delaware.gov or (302) 674-6227.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.



Trinidad Navarro
Delaware Insurance Commissioner

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